

1 tomorrow. At this point it's probably -- him on  
2 redirect but I'll try to keep it as brief as possible,  
3 though we can evaluate when we're done with the cross.

4 JUDGE SIPPEL: Well, I'll stay until 6:00,  
5 but I think about - that's going to be about the  
6 bewitching hour.

7 MR. PRICE: If we expect that it's going  
8 to run past then maybe we'll break and Mr. Ramirez we  
9 know is not scheduled to leave until tomorrow  
10 afternoon. We can wrap-up with him quickly tomorrow  
11 morning.

12 JUDGE SIPPEL: We'll see what we can do.  
13 We'll see what we can do. That doesn't count against  
14 your 15-minutes. We're off the record. Thank you.  
15 (Whereupon, the above-entitled matter went off the  
16 record at 3:49 p.m. and resumed at 4:07 p.m.)

17 JUDGE SIPPEL: Mr. Ramirez, you're still  
18 under oath.

19 THE WITNESS: Yes.

20 BY MR. SHOOK:

21 Q Excuse me. Mr. Ramirez, I'd like you to  
22 refer again to SFUSD Exhibit 6, pages 7 and 8.

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1           A       Okay. I see that.

2           Q       Would I be correct that you've used, or  
3       you referred to pages 7 and 8 in order to answer the  
4       questions that, or to respond to the charges that  
5       Golden Gate Public Radio had made with respect to the  
6       public file?

7           A       Again, I don't know. The first time I saw  
8       this document I didn't remember. So I'm assuming that  
9       these NPR pages were attached to it. So I wouldn't  
10      remember those either.

11          Q       All right. Looking at page 7 of SFUSD  
12      Exhibit 6, next to the ownership reports, all stations  
13      rule provision and then the writing that appears  
14      underneath, there's a checkmark that's there.

15          A       Yes.

16          Q       Do you know who put the checkmark there?

17          A       No, I don't.

18          Q       Does it look like anything that you did?

19          A       It looks like a checkmark I might have  
20      made, but I'm not sure.

21          Q       All right. Turning to page 8, there are  
22      two checkmarks and then a question mark. Do you know

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1 who put those marks on page 8?

2 A No, I don't know for sure who made those  
3 checkmarks and question mark, but those do look like  
4 marks that I might have made.

5 Q That question mark looks like a signature  
6 question mark from you?

7 A Pardon?

8 Q The question mark there, that's something  
9 that's a style that you used?

10 A It looks familiar. It looks like I might  
11 have wrote that.

12 Q All right. Do you have any explanation as  
13 to why these -- the sections on the two pages that we  
14 looked at have check marks or question marks next to  
15 them?

16 A I can only guess that's according to the  
17 memo that says, or I tell Irene that I refer to this  
18 Station Managers Handbook and then if these are the  
19 pages from the handbook, then these would be the  
20 sections that I related to.

21 Q Now, in your testimony SFUSD Exhibit T1 at  
22 page 15, you note at the time of your 1998 declaration

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1 that you understood that the completion and filing of  
2 the 1997 ownership report with the renewal application  
3 was all that was needed to meet the FCC's ownership  
4 report requirements; do you see that?

5 A On line 10?

6 Q Right. Beginning at line 10.

7 A Yes, I see that.

8 Q Now apparently, however, you later learned  
9 that there was supposed to have been some kind of  
10 supplemental ownership reports also placed in the  
11 public inspection file. Do you have any recollection  
12 as to who it was who told you that there was supposed  
13 to be supplemental ownership reports following the '92  
14 and '94 general elections?

15 A I don't remember -- no, I don't remember  
16 who. I can think through how I think I came to that  
17 decision.

18 Q Okay. Why don't you tell us that?

19 A Well, I think that Ernie sent, or the  
20 Golden Gate Public Radio attorney's had sent Ernie the  
21 letter where they stated that they wanted to open up  
22 negotiations to hand over the radio station or else

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1 they would file this petition to deny and that  
2 presumably they had attached the list of 28 items.

3 Then they sent that to Ernie and then  
4 according to the phone log here Ernie then contacted  
5 the station to let me know about it. Then, in  
6 thinking through this, he then must have sent me the  
7 list and then asked me to go through it and assess it  
8 to help him in his evaluation of the list.

9 I think, if I'm remembering this right, he  
10 -- the list would have drawn my attention to the fact  
11 that the certification I made with respect to the  
12 ownership report was not accurate. So, I think that  
13 that would have then caused me to undertake the  
14 activities to create the ownership reports for 1993  
15 and 1995.

16 Q Well you anticipated probably the next two  
17 or three questions that I had. So, upon learning that  
18 supplemental ownership reports were following the '92  
19 and '94 elections should have been prepared and placed  
20 in the public file, you undertook some steps to create  
21 those documents?

22 A Yes. I mean, it's pretty clear that the

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1 '93 and '95 reports I drafted and then sent on to the  
2 superintendent's office for signature. It looks like  
3 it took a couple months for them to send it back to  
4 us, which I'm not surprised today, I'm not surprised  
5 that --

6 Q Your recollection of the sequence of  
7 events is that when you came to the conclusion that  
8 these supplemental ownership reports needed to be  
9 prepared and placed in the public inspection file, you  
10 immediately took steps to do that and you then sent  
11 those materials, or sent those documents off to SFUSD  
12 administration for signature but it took almost two  
13 months it looks like.

14 A Well, I mean immediately, I don't know if  
15 it was -- I don't know for sure if it was immediately  
16 after providing Ernie Sanchez the information through  
17 the October 4<sup>th</sup> memo. I mean I'm guessing it would  
18 have taken some time to create the reports and make  
19 sure that they were the way they were supposed to  
20 look.

21 So -- but again, I mean like I said  
22 earlier, it -- I wouldn't be surprised if we sent

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1 something to the administration office and just --  
2 it's a large company. It would have taken them awhile  
3 to send it back to us.

4 Q You do have a memory though of actually  
5 preparing those documents?

6 A A very vague memory of undertaking the  
7 activities to create the documents so that the file  
8 would be complete, yes.

9 Q For documents like that, typically would  
10 you have actually prepared the document yourself or  
11 would you have delegated that task to somebody else to  
12 prepare the document?

13 A Typically, these were unique  
14 circumstances. So, it would be hard to say --

15 Q Okay. That's fair.

16 A -- that typical would apply.

17 Q In your testimony at page 18, SFUSD  
18 Exhibit T1 at page 18, you assert that the only action  
19 that you took in connection with your October 4 memo  
20 to Mr. Sanchez was the addition of the '93 and '95  
21 supplemental ownership reports to the station's public  
22 file.

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1                   Is there any reason why the October 1997  
2 inventory of the public file that is referenced in EB  
3 Exhibit 7, page 3, item 2151 not noted in your  
4 testimony?

5                   A       I don't know. Again, the -- this is the  
6 first time I'm seeing this list. There's a lot that  
7 I don't remember. I don't know why.

8                   Q       We've gone over the inventory at some  
9 length, so I'm not going to go into that again. I  
10 want to move on to your January, 1998 declaration  
11 which appears at SFUSD Exhibit 4, pages 47 to 52. Do  
12 you have that, the opposition?

13                  A       Yes, I have that.

14                  Q       First of all, do you recognize this  
15 document?

16                  A       What page are we on in this item?

17                  Q       Pages 47 to 52, it's a declaration.

18                  A       Yes, I recognize this.

19                  Q       This is your declaration that's executed  
20 on January 17, 1998?

21                  A       Yes, it is.

22                  Q       Now, the declaration appears to address

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1 Golden Gate's -- Golden Gate Public Radio's allegation  
2 that you knew that at the time of the renewal  
3 application certification, the public file was missing  
4 required documents.

5 First off, does your 1998 declaration  
6 acknowledge that you answered the renewal application  
7 questions, section 3, or excuse me, section 3,  
8 question 2 incorrectly?

9 A Yes. On page 1 -- on page 4, paragraph 11  
10 in January of 1998 I stated that my understanding of  
11 what information was required to be provided and  
12 certified was not complete and I believe I may have  
13 misunderstood what was required to completing sections  
14 3, questions 1, 2, and 3.

15 Q Okay. So we're supposed to take from that  
16 that you were acknowledging that the renewal  
17 application was answered incorrectly?

18 A Yes. What I'm saying there is that I  
19 believe that I may have understood the question and  
20 provided a response that wasn't accurate. But to the  
21 best of my knowledge and in good faith that it was  
22 accurate.

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1           Q       Now was that supposed to be for both  
2 paragraphs 11 and paragraph 12 or just paragraph 11?

3           A       I'm not sure what I -- I'm not sure that's  
4 --

5           Q       I'm looking at paragraph 11 and it states  
6 in there what your understanding of the information  
7 that you were supposed to provide and that you may  
8 have misunderstood how to answer the questions.

9                   It doesn't say to me that you are telling  
10 the agency yes, I was wrong --

11          A       I think I understand --

12          Q       -- I answered the questions wrong.

13          A       Yes. I think I understand your question,  
14 but you have to remember that going back to the  
15 October -- the early October memo or letter to Ernie  
16 Sanchez from the GGPR attorney's and I say -- like I  
17 said in my testimony, I understood at the time that  
18 this looks like a serious legal matter.

19                   At the time I wasn't an attorney, today  
20 I'm not an attorney, and I needed to -- and the school  
21 district itself had to seek greater knowledge and  
22 greater leadership on the matter because it had become

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1 a legal matter.

2 Whether or not we were going to take one  
3 step or another at the appropriate time, we needed to  
4 rely on the advice of our FCC attorney. So  
5 significantly, I saw my role going all the way back to  
6 the October 4<sup>th</sup> memo as changing from I need to take  
7 a direct step and do this.

8 I mean, I needed to rely on our attorneys  
9 to direct us as to what to do next with respect to the  
10 license renewal application, what to do next with  
11 respect to responding to the letter from the GGPR  
12 attorneys.

13 Then, subsequently, once the GGPR petition  
14 was formerly submitted that heightened the legal  
15 situation and significantly increased the reliance  
16 that we had to place on our attorney and this  
17 declaration is a part of that response.

18 Q Again, in terms of just telling the FCC "I  
19 made a mistake," can you tell me where in your  
20 declaration you're saying that?

21 A I understand what you're asking. It  
22 doesn't say that, but at this point in the response to

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1 the FCC and in response to the GGPR petition, I was  
2 following the instructions of our attorney.

3 In the case of what it says specifically  
4 here in the declaration, this is what I believe to be  
5 what needed to be said at this time which is that my  
6 understanding was that I may have made a mistake  
7 because of, or I may have made a mistake because I  
8 misunderstood the question and that I believed the  
9 that I responded was accurate.

10 I mean I -- there's -- as early as  
11 January of 1998 I don't think I was trying to hide or  
12 misrepresent that, look, we may have made a mistake.  
13 But at the same time, we needed to rely on our  
14 attorney to advise us on the next step. Again, how to  
15 respond appropriately at the right time and the right  
16 way.

17 Q Okay. So, at least in your mind you were  
18 of the view that what you were telling the FCC was "I  
19 may not have understood this;" is that what you were  
20 telling us?

21 A Yes. I may have made a mistake because I  
22 may not have understood the role in responding to the

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1 question.

2 Q As opposed to saying, "yes I made a  
3 mistake?"

4 A Again, like I said earlier, I was relying  
5 on the advice of counsel.

6 JUDGE SIPPEL: That's been asked and  
7 answered.

8 BY MR. SHOOK:

9 Q I want to focus your attention at  
10 paragraphs 9 through 12, which appear at FSUSD Exhibit  
11 4 beginning at page 49.

12 A Okay.

13 Q Now in paragraph 9, after referring to  
14 Mr. Evans' comment to you about the public file, you  
15 state "I nevertheless attempted to follow up on this  
16 conversation by seeking to determine what was in the  
17 files all ready and what was needed to be added to  
18 make them complete and in conformity with the  
19 commission's requirements. Review and updating of the  
20 file has been and is an ongoing process."

21 There's an additional sentence, but I  
22 don't think it's pertinent to where I'm going. Did

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1       you intend to suggest that Mr. Evans' comment in  
2       August, 1996 triggered action on your part to  
3       determine what was in the public file?

4               A       No.       I mean, I've looked at this  
5       declaration closely myself and, like I amended in my  
6       testimony, that it does give the impression, the way  
7       it's worded that I followed up directly on the  
8       conversation that Dave says he had with me.

9               Looking at this now, I think what it meant  
10       to say was it was a good faith effort to say that  
11       look, ultimately through the license renewal --  
12       through the process to complete the license renewal  
13       application- I did look at the file and I did pretty  
14       much see the same thing that I think Dave was trying  
15       to call to my attention and followed up on it in the  
16       way that I did.

17              Q       Now to the extent though that anyone would  
18       look at this and reasonably conclude that what you  
19       were trying to tell the commission was that you looked  
20       at the public file as a consequence of the  
21       conversation of Mr. Evans. Wouldn't that -- wouldn't  
22       the suggestion along those lines that you had taken

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1       such action be false?

2                   MR. PRICE: Your Honor, I object. I'm not  
3       sure the witness can testify as to what an average  
4       person, how they would interpret this. He has given  
5       his explanation of how -- what he meant by it.

6                   JUDGE SIPPEL: I sustain the objection.  
7       I beg you, rephrase the question much more narrowly  
8       than you did.

9                   BY MR. SHOOK:

10               Q       Considering that your first look at the  
11       public file didn't occur until May, 1997 and the  
12       conversation that's referenced took place in August of  
13       1996 is it any suggestion that you took action as a  
14       result of Mr. Evans' claim false?

15               A       No. I think that in writing this  
16       declaration this was an effort to show that ultimately  
17       I did take a look at the Public Inspection File and it  
18       did follow up on what Dave might have been trying to  
19       tell me in 1996.

20                   I mean I read this now and it's- we're  
21       almost ten years down the road and honestly if I knew  
22       we'd be sitting here on a Monday afternoon trying to

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1 figure out what this means now versus what I wrote  
2 back in January of 1998, I might have wrote this  
3 differently or might have said it differently.

4 But this is -- this was a good faith  
5 effort to show that, look, ultimately -- I looked at  
6 the file.

7 Q Did you draft this language?

8 A Yes. I remember drafting this language  
9 with Susan Jenkins who was an attorney in Ernie  
10 Sanchez' office.

11 Q You were the one that actually wrote this  
12 in the first instance?

13 A No. I don't remember writing this in the  
14 first instance. I remember speaking with her on the  
15 telephone and she asked me questions and I responded.

16 Q Did you tell Susan that you hadn't looked  
17 at the public file until at least May, 1997?

18 A I don't remember.

19 Q Mr. Evans' comments were made in August of  
20 '96, so what did you tell Susan in terms of when you  
21 looked at the public file?

22 A I don't remember. This is almost ten

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1 years ago. I don't --

2 Q Now in the next -- in the second sentence  
3 of the two that I read you, the sentence that reads  
4 "Review and updating of the file has been and is an  
5 ongoing process."

6 We've been talking for some time now about  
7 when it was that you first came to the awareness that  
8 there was actually a public file requirement and that  
9 nothing had been done about it and that you didn't  
10 even have such awareness until may 1997.

11 How could you suggest that review and  
12 updating of the file has been an ongoing process when  
13 that wasn't the case?

14 A We had -- looking at this today, it does  
15 leave a different impression than what I think this  
16 meant to convey back when this was written, that look,  
17 ultimately through the -- through completing the  
18 license renewal application we started, or I started  
19 reviewing the Public Inspection File and it's been  
20 updated as needed to make it in conformity with the  
21 rule.

22 Q Wasn't the whole point of paragraph 9 to

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1 convey the impression that you took action preparing  
2 the public file in to compliance with the FCC's rules  
3 as soon as you learned that that might not be the  
4 case?

5 A I'm not sure if I understand what you're  
6 asking.

7 Q Okay. Why don't you just take your time  
8 and read through public, or excuse me, paragraph 9  
9 again, just to yourself.

10 A Okay.

11 Q My question is, wasn't the whole point of  
12 paragraph 9 to convey the impression that you took  
13 action to bring the public file in to compliance with  
14 the FCC's rules as soon as you learned that such might  
15 not be the case?

16 A No. No. I disagree. I think this is  
17 ultimately a poorly worded paragraph because in the  
18 instance where the sixth or seventh sentence says that  
19 I subsequently forgot the conversation.

20 I mean that's consistent with what I  
21 remember that whatever Dave told me about the Public  
22 Inspection File or that it needed my attention just

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1 wasn't something that meant anything to me because I  
2 didn't understand the significance of the Public  
3 Inspection File.

4 I think, again, this is a poorly worded  
5 paragraph and I think what the last sentence on the  
6 page, like I said, was meant to convey is that  
7 ultimately I looked at the Public Inspection File and  
8 as a result of looking at the Public Inspection File,  
9 it followed up on the concerns that Dave had expressed  
10 or that he says he had expressed back in August of  
11 1996.

12 Q Looking at EB Exhibit 5, page 42 that's  
13 Mr. Evans' declaration. EB Exhibit 5 is the Petition  
14 to Deny. You may not have that in front of you.

15 MR. PRICE: It should be the same  
16 document. It should be the same, the same document.  
17 Oh, no. I'm sorry.

18 MR. PRICE: I'm sorry. What page?

19 MR. SHOOK: page 42. That's as the pages  
20 are now numbered. It would be page 13 on the other  
21 numbering depending on which document you have.

22 MR. PRICE: We got it, thank you.

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1 MR. SHOOK: Okay.

2 BY MR. SHOOK:

3 Q Mr. Ramirez, was Dave Evans lying in his  
4 October 28, 1997 declaration when he claimed that in  
5 August 1996, he told you that the Public Inspection  
6 File was a mess?

7 A I don't know if he's lying. Like I said  
8 in my 1998 declaration, seeing this affidavit in the  
9 GGPR petition made me remember that some time in the  
10 first few weeks that I was at the station, probably in  
11 one of the meetings that Dave and I had regarding the  
12 construction of the station, he did bring up the  
13 Public Inspection File.

14 But again, because I didn't know what the  
15 Public Inspection File was. I didn't know what to  
16 make of it.

17 Q Okay. But so far as you know, he wasn't  
18 lying when he said that the Public Inspection File was  
19 a mess?

20 A It'd be only a guess. I don't know if he  
21 was lying or not.

22 Q Well you looked at the Public Inspection

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1 File I think for the first time in May of 1997 and I  
2 believe, in your own words, it was disorganized?

3 A Yes.

4 Q Was it a mess?

5 A Yes.

6 Q Okay. Looking at Mr. Evans' declaration  
7 again, was he lying when he told you that the Public  
8 Inspection File required your immediate attention?

9 MR. PRICE: The witness had just answered  
10 that. The best he can do is guess to the same  
11 question. You want him to guess?

12 JUDGE SIPPEL: I sustain that.

13 BY MR. SHOOK:

14 Q Moving on to paragraph 10 of your  
15 January 1998 declaration, SFUSD Exhibit 4, page 50,  
16 the very first sentence of paragraph 10 reads with  
17 respect to Exhibit D, affidavit of Susan Hecht, I  
18 recall that in June 1997 as a part of this file review  
19 and update process I assigned Ms. Hecht the task of  
20 reviewing the file.

21 Are you suggesting that your assigning  
22 Susan Hecht to review the public file was part of an

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1 ongoing review process?

2 A No. I don't think that that's what that  
3 suggests. I think that that suggests that the file  
4 review and update process started at that time.

5 Q Oh, okay. So I should just read out of  
6 this sentence "as a part of this file review and  
7 update process?"

8 A Yes. Again, I think that this -- for the  
9 time that this is written, I think that this is the  
10 best that it could be written and it's ten years down  
11 the road and I think, if I knew this should be more  
12 exact or that a more precise word should be used, I  
13 think that would have happened.

14 Q Doesn't this suggestion that Susan Hecht's  
15 activity here as a part of this, or your asking her,  
16 is a part of this file review and update process  
17 simply continue the deception that began in paragraph  
18 9.

19 MR. PRICE: Objection.

20 JUDGE SIPPEL: Sustained.

21 BY MR. SHOOK:

22 Q Isn't the truth that Susan Hecht's

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1 assignment had nothing to do with an ongoing review  
2 process?

3 A No. The process to review and update the  
4 Public Inspection Files started with the work to  
5 complete the license renewal application. The fact  
6 that paragraph 9 ends the way it does is -- I mean, I  
7 think it's unfortunate because when this was written  
8 it was written in such a way -- in that way to convey  
9 that ultimately, through the completion of the license  
10 renewal application, the process to review and update  
11 the Public Inspection File it started.

12 Q As memory serves the way that this  
13 declaration came about as a result of the Petition to  
14 Deny and one of the things that this declaration is  
15 supposed to do is attack or undercut the petition, is  
16 it not?

17 MR. PRICE: Objection.

18 JUDGE SIPPEL: Sustained.

19 BY MR. SHOOK:

20 Q Now in the next sentence of paragraph 10  
21 which reads "I do not consider the list she produced  
22 which is attached to the Petition to Deny to be

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1 accurate. In fact it appears that she may have  
2 misunderstood my directions when she worked on this  
3 assignment."

4 Now so you're making an assessment in  
5 January of 1998 that the list that Susan Hecht  
6 produced was inaccurate?

7 A No. Again, I think this is yet another  
8 example of poor grammar, poor wording of this  
9 declaration because I think that that's a tense error  
10 that the preceding sentence and the subsequent  
11 sentence are both in the past tense.

12 I believe that the second sentence was  
13 supposed to read -- is supposed to read "I did not  
14 consider the list she produced," because then it would  
15 be consistent with the preceding and subsequent  
16 sentence.

17 Q Okay. Well with that correction in mind,  
18 if that were the case that what you meant to say was  
19 that you did not consider the list that she produced  
20 to be accurate. Doesn't that assume that you actually  
21 looked at the list and tried to determine whether or  
22 not it was accurate?

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1           A       Yes. Like I said earlier in my testimony  
2       what I remember doing is taking a look at what she --  
3       the list that she gave me, spending two or three  
4       seconds going through it and realizing I didn't need  
5       it anymore.

6                   I know that in the sentence it says that  
7       I didn't find inaccurate, but again, I think this is  
8       a case where when this was written if I knew, even if  
9       our attorney at the time knew, that we'd be parsing  
10      all over individual words in here to figure out  
11      exactly what that word meant, we would have picked the  
12      right word to use for the hearing today.

13           Q       So in other words, I shouldn't read in to  
14      this that you're suggesting in any way that Susan  
15      Hecht's report was inaccurate because there were  
16      documents in the Public Inspection File that she  
17      didn't account for?

18           A       I'm not sure if I understood your  
19      question.

20           Q       There's this -- you're making a statement  
21      in your declaration about the accuracy of Susan  
22      Hecht's report, isn't that conveying the impression

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